IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

MFA.No. 433 of 2001()

OPMV.955/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, THODUPUZHA . dt.1.11.2000

.....

APPELLANT: PETITIONER

DEVAKI, W/O. BHASKARAN, AGED 50 YEARS,
RESIDING AT ADMACKAL HOUSE,
RAJAKUMARY P.O.,
DO VILLAGE, UDUMBANCHOLA TALUK,
IDUKKI DISTRICT.

BY ADV. SRI.P.CHANDY JOSEPH

RESPONDENTS: RESPONDENTS
----

1. **K.R.SAJEEVAN, RESIDING AT KARAKKUNNEL HOUSE, RAJAKUMARY P.O. DO VILLAGE.**

2. **BIJU, S/O. DEVASSIA, RESIDING AT EZHAMATTATHIL HOUSE, DO. DO.**

3. **NEW INDIA ASSURANCE COMPANY LTD., KATTAPPANA, REP.BY ITS BRANCH MANAGER.**

BY ADV. SRI.CHITTOOR RAJAMANNAR - R1 & R2
SRI.DILEEP CHITTOOR
SMT.RESMI B.CHITTOOR
SRI.M.M.MATHEW (DEVIKULAM)
SRI.JOHNSON PETER
SRI.M.JACOB MURICKAN - R3

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A.No. 433 of 2001

Dated this the 10th day of July, 2007

Judgment

Koshy, J.

A 61 year old women sustained injuries in a motor accident. As a result of the incident, she had fracture of second, third, fourth and seventh ribs and fracture of mandible and left ulna. 25% disability was assessed. Against a claim of Rs.1,50,000/-, tribunal has awarded only Rs.67,660/- with 12% interest from the date of application till the date of deposit. Only quantum of compensation is disputed in this appeal. Tribunal also found that the accident occurred due to the negligent driving of the second respondent driver of the vehicle insured by the third respondent insurance company. Tribunal also directed the insurance company to deposit the compensation and get the same recovered from the insured as the second respondent had no valid driving licence. Respondents 1, 2 and 3 were ex parte. Only the quantum of compensation is disputed in this appeal. Disability certificate showed that she had 25% disability. She was working in an estate. The tribunal

did not grant compensation on the basis of multiplier method. For pain and suffering, the tribunal has awarded Rs.40,000/-. It is true that only an amount of Rs.10,000/- was awarded for disability. Even though it was stated that she was employed in an estate and getting Rs.1,500/- per month, considering her age, we are not believing the same. The tribunal has awarded Rs.40,000/- towards pain and suffering which is on the higher side. Considering the total compensation awarded and the rate of interest granted by the tribunal and also considering the nature of injuries and age of the deceased, we are of the opinion that just and reasonable compensation was awarded. No enhancement is necessary. Appeal is dismissed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
T.R.RAMACHANDRAN NAIR, JJ.

M.F.A.NO.433/2001

JUDGMENT

Dated:10th July, 2007